

REMARKS

Claims 1-39 are pending in this application. Claim 1 is the sole independent claim. By this Amendment, claim 28 is amended to correct a minor informality. Thus, no new matter is added.

Allowable Subject Matter

Claims 3-27 and 29-39 are indicated as being allowable if rewritten in independent form, and claim 28 would be allowable if amended to overcome the rejection under USC §112, second paragraph, discussed below. The claims are in condition for allowance for the reasons discussed below.

Rejections under 35 U.S.C. §112

Claim 28 stands rejected under 35 USC §112, second paragraph, for allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, it is alleged that there is no antecedent basis for the recitation of “YBaCuO compounds” and “uses liquid nitrogen as a cryogenic liquid,” recited in claim 28. This rejection is respectfully traversed.

Applicants respectfully remind the Examiner that antecedence issues in the context of 35 USC §112, second paragraph, relate to the claims and not the specification (see MPEP §706.03(d)). However, to address any confusion over support for the claimed subject matter, the specification is amended to provide additional support the recitation of “YBaCuO compounds” and “uses liquid nitrogen as a cryogenic liquid.” Support for the amendments may be found in the originally filed specification at least at claim 28.

As the specification is amended to address the rejection, Applicants respectfully request that the rejection of claim 28 be withdrawn.

Claim Rejections

Claims 1 and 2 stand rejected on the grounds of non-statutory double patenting over claims 1-39 of U.S. Patent No. 7,172,474 to Rzađki, et al. (Rzađki). The rejection is respectfully traversed.

In rejecting claims 1 and 2, it is alleged that the “the subject matter in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter.”

In rejecting claim 1, the Office Action fails to establish that Rzađki discloses or suggests all of the features recited in the rejected claims. For example, the Office Action fails to show where Rzađki shows at least one additional propulsion system, to be switched on when required and suppliable with electrical power from an AC network, the DC network and the AC network being configured in such a manner as to allow power to be transferred in both directions therebetween. Thus, a proper non-statutory double patenting has not been established.

Although Applicants traverse the double patenting rejection, a Terminal Disclaimer in compliance with 37 CFR §1.321(c) and (e) is filed concurrently herewith (copy enclosed) rendering the rejection moot. Accordingly, withdrawal of the rejection is respectfully requested.

CONCLUSION

In view of the above remarks and amendments, Applicants respectfully submit that each of the rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that

personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John W. Fitzpatrick at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §1.16 or under 37 C.F.R. §1.17; particularly, extension of time fees.

Respectfully submitted,

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By


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